

Appln. No.: 10/077,405  
Amdt. dated September 5, 2007

### REMARKS

In the final Office Action of April 5, 2007, claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,623,483 ("Agrawal"). Claim 1 includes operations of "(b) holding each data element that is received prior to an end of a time period associated with each data element in a buffer until the end of the time period, at which time the data element is released for playout; (c) monitoring a loss rate...; and (d) adjusting a duration of the time period based upon the loss rate." The Examiner asserts that the time period referred to in operation (b) is satisfied by the timer 200 described in column 5, lines 24-33, of Agrawal. Applicant respectfully disagrees and submits that the timer 200 of Agrawal merely defines a playout rate and not a playout deadline per claim 1. But more importantly, Agrawal does not teach adjusting the playout rate defined by the timer 200 based on a loss rate. The Examiner cites column 6, lines 15-17, of Agrawal, which states, "Control circuit 10 may also update the buffer operating characteristics, i.e., TED, buffer size, and pointer list in response to a changing PDD or PLR (packet loss rate)." However, Column 6, lines 15-17, does not teach or suggest adjusting the playout rate defined by the timer 200. Column 5, lines 24-39, of Agrawal talk about adjusting the timer 230 to the packet rate  $T_p$  minus the ratio of the buffer delay  $BD$  to the packet rate  $T_p$ . However, this adjustment is only done for the first packet in a stream and, more importantly, the adjustment made to the timer 200 is not based on a loss rate as in claim 1. Therefore, Applicant submits that claim 1 is not anticipated by Agrawal. Applicant therefore requests allowance of claim 1 and claims 2-11 depending therefrom.

Independent claims 12 and 23 include limitations similar to those contained in claim 1. Applicant submits that claims 12 and 23, and claims 13, 14, 18-22, 24, 25 and 27-33 depending therefrom are allowable for the reasons set forth above with respect to claim 1.

In view of the foregoing amendments, Applicant respectfully requests allowance of claims 1-14, 18-25 and 27-33.

FROM McANDREWS, HELD, & MALLOY

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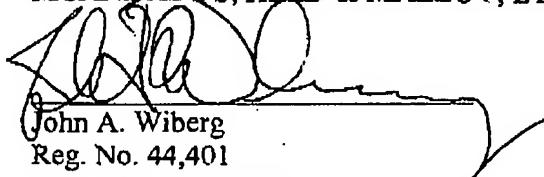
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The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: September 5, 2007

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